

Title 36: TAXATION
Chapter 815: PARTNERS AND PARTNERSHIPS

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Maine Revised Statutes
Title 36: TAXATION
Chapter 815: PARTNERS AND PARTNERSHIPS

§5190. ENTITY NOT TAXABLE

A partnership as such shall not be subject to the tax imposed by this Part. Persons carrying on business as partners shall be liable for the tax imposed by this Part only in their separate or individual capacities.
[1969, c. 154, §F (NEW).]

SECTION HISTORY

P&SL 1969, c. 154, §F1 (NEW).

§5191. RESIDENT PARTNER -- ADJUSTED GROSS INCOME

1. Modification in determining the adjusted gross income of a resident partner. Any modification described in section 5122 which relates to an item of partnership income, gain, loss or deduction shall be made in accordance with the partner's distributive share, for federal income tax purposes, of the item to which the modification relates. Where a partner's distributive share of any item is not required to be taken into account separately for federal income tax purposes, the partner's distributive share of that item shall be determined in accordance with the partner's distributive share, for federal income tax purposes, of partnership taxable income or loss generally.

[1989, c. 508, §19 (AMD) .]

2. Character of items. Each item of partnership income, gain, loss or deduction shall have the same character for a partner under this Part as it has for federal income tax purposes. Where an item is not characterized for federal income tax purposes, it shall have the same character for a partner as if realized directly from the source from which realized by the partnership or incurred in the same manner as incurred by the partnership.

[1969, c. 154, §F1 (NEW) .]

3. Tax avoidance or evasion. If a partner's distributive share of an item of partnership income, gain, loss or deduction is determined for federal income tax purposes by a special provision in the partnership agreement, the principal purpose of which is the avoidance or evasion of tax under this Part, the partner's distributive share of that item and any modification required with respect to that item must be determined in accordance with the partner's distributive share of the taxable income or loss of the partnership generally, exclusive of items that must be separately computed under the Code, Section 702.

[2011, c. 548, §27 (AMD) .]

SECTION HISTORY

P&SL 1969, c. 154, §F1 (NEW). 1979, c. 541, §A233 (AMD). 1989, c. 508, §19 (AMD). 2011, c. 548, §27 (AMD).

§5192. NONRESIDENT PARTNER -- ADJUSTED GROSS INCOME FROM SOURCES IN THIS STATE

1. General. In determining the adjusted gross income of a nonresident partner of any partnership, there shall be included only that part derived from or connected with sources in this State of the partner's distributive share of items of partnership income, gain, loss and deduction entering into his federal adjusted gross income, as such part is determined under regulations prescribed by the assessor in accordance with the general rules in section 5142.

[1969, c. 154, §F1 (NEW) .]

2. Itemized deductions. If a nonresident partner of any partnership elects to itemize his deductions in determining his tax liability to this State, there shall be attributed to him his distributive share of partnership items of deduction from federal adjusted gross income.

[1985, c. 783, §32 (AMD) .]

3. Special rules as to sources in this State. In determining the sources of a nonresident partner's income, no effect shall be given to a provision in the partnership agreement which:

A. Characterizes payments to the partner as being for services or for the use of capital, or allocated to the partner, as income or gain from sources outside this State, a greater proportion of his distributive share of partnership income or gain than the ratio of partnership income or gain from sources outside this State to partnership income or gain from all sources except as authorized in subsection 5; or [1969, c. 154, §F1 (NEW) .]

B. Allocates to the partner a greater proportion of a partnership item of loss or deduction connected with sources in this State than his proportionate share, for federal income tax purposes, of partnership loss or deduction generally, except as authorized in subsection 5. [1969, c. 154, §F1 (NEW) .]

[1969, c. 154, §F1 (NEW) .]

4. Partner's modifications. Any modification described in section 5122, subsection 1 and 2, which relates to an item of partnership income, gain, loss or deduction, shall be made in accordance with the partner's distributive share, for federal income tax purposes of the item to which the modification relates, but limited to the portion of such item derived from or connected with sources in this State.

[1979, c. 541, Pt. A, §234 (AMD) .]

5. Alternate methods. The assessor may, on application, authorize or may require the use of such other methods of determining a nonresident partner's portion of partnership items derived from or connected with sources in this State, and the modifications related thereto, as may be appropriate and equitable, on such terms and conditions as he may require.

[1969, c. 154, §F1 (NEW) .]

6. Application of rules for resident partners to nonresident partners. A nonresident partner's distributive share of items of income, gain, loss or deduction shall be determined under section 5191, subsection 1. The character of partnership items for a nonresident partner shall be determined under section 5191, subsection 2. The effect of a special provision in a partnership agreement, other than a provision referred to in subsection 3, having as a principal purpose the avoidance or evasion of tax under this Part shall be determined under section 5191, subsection 3.

[1979, c. 541, Pt. A, §235 (AMD) .]

SECTION HISTORY

P&SL 1969, c. 154, §F1 (NEW). 1979, c. 541, §§A234,A235 (AMD). 1985, c. 783, §32 (AMD).

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